

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86336064
LAW OFFICE ASSIGNED	LAW OFFICE 106
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86336064/large
LITERAL ELEMENT	HORSLYX
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>RESPONSE TO OFFICE ACTION This is in response to the Final Office Actions dated May 28, 2015 and June 1, 2015. MISCELLANEOUS STATEMENT On November 30, 2015, Applicant filed its Amendment to Allege Use covering all of the goods listed in the original application. Additionally, on December 1, 2015, Applicant filed its Request to Divide out the goods that were not refused registration into a single Child application. Copies of the filing receipts for both filings are attached.</p> <p>AMENDMENT TO THE DESCRIPTION OF GOODS Applicant herewith submits its Request for Reconsideration After Final and requests following goods in Class 5 to remain in this Parent Application: "Veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function" in International Class 5. AMENDMENT TO SUPPLEMENTAL REGISTER Please delete the reference to "PRINCIPAL REGISTER" in this Parent application and substitute therefor ? SUPPLEMENTAL REGISTER?. REMARKS In light of the above amendments, it is believed that this application is now in condition for publication. Should the Examining Attorney have any questions which remain after consideration of the foregoing, he is encouraged to contact applicant's attorney at 1-800-445-3460. Any additional fees necessitated by this submission may be charged to Deposit Account 19-0522. Respectfully submitted, Cheryl L. Burbach Hovey Williams LLP Attorneys for Applicant</p>	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	

ORIGINAL PDF FILE	evi_1-7043171130-20151201111422999094_.547581_2.PDF
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\863\360\86336064\xml10\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\863\360\86336064\xml10\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\863\360\86336064\xml10\RFR0004.JPG
ORIGINAL PDF FILE	evi_1-7043171130-20151201111422999094_.548036_1.PDF
CONVERTED PDF FILE(S) (2 pages)	\\TICRS\EXPORT16\IMAGEOUT16\863\360\86336064\xml10\RFR0005.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\863\360\86336064\xml10\RFR0006.JPG
DESCRIPTION OF EVIDENCE FILE	Filing receipt for Amendment to Allege Use filed November 30, 2015. Filing receipt for Request to Divide filed December 1, 2015.
GOODS AND/OR SERVICES SECTION (005)(current)	
INTERNATIONAL CLASS	005
DESCRIPTION	
Animal feed additive for use as a nutritional supplement for medical purposes; Animal feed supplements; Dietary supplements for animals; Feed supplements for animals; Medicated supplements for foodstuffs for animals; Non-medicated additives for animal feed for use as nutritional supplements; Veterinary preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing pharmaceutical preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing vitamins and minerals for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (005)(proposed)	
INTERNATIONAL CLASS	005
TRACKED TEXT DESCRIPTION	
Animal feed additive for use as a nutritional supplement for medical purposes ; Veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; Animal feed supplements ; Dietary supplements for animals ; Feed supplements for animals ; Medicated supplements for foodstuffs for animals ; Non-medicated additives for animal feed for use as nutritional supplements ; Veterinary preparations for livestock for the treatment of nutritional deficiencies in forage	

~~and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing pharmaceutical preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing vitamins and minerals for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function~~

FINAL DESCRIPTION

Veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function

FILING BASIS Section 1(b)

GOODS AND/OR SERVICES SECTION (031)(class deleted)

ADDITIONAL STATEMENTS SECTION

SUPPLEMENTAL REGISTER The applicant seeks registration of the mark on the Supplemental Register (i.e., a change of the words 'Principal Register' to 'Supplemental Register'). NOTE: The applicant has separately filed an Allegation of Use, to change the basis of this application from Section 1(b), intent-to-use, to Section 1(a), use in commerce.

SIGNATURE SECTION

RESPONSE SIGNATURE /Cheryl L. Burbach/

SIGNATORY'S NAME Cheryl L. Burbach

SIGNATORY'S POSITION Attorney of Record, Kansas and Missouri bar member

SIGNATORY'S PHONE NUMBER 913-647-9050

DATE SIGNED 12/01/2015

AUTHORIZED SIGNATORY YES

CONCURRENT APPEAL NOTICE FILED YES

FILING INFORMATION SECTION

SUBMIT DATE Tue Dec 01 15:15:14 EST 2015

TEAS STAMP
USPTO/RFR-XX.XX.XXX.XXX-2
0151201151514350208-86336
064-5407321186d6b535b6884
741ec91c9e8152662b9ca39ce
c019e405097e55fdf-N/A-N/A
-20151201111422999094

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **86336064** HORSLYX(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86336064/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

RESPONSE TO OFFICE ACTION This is in response to the Final Office Actions dated May 28, 2015 and June 1, 2015. MISCELLANEOUS STATEMENT On November 30, 2015, Applicant filed its Amendment to Allege Use covering all of the goods listed in the original application. Additionally, on December 1, 2015, Applicant filed its Request to Divide out the goods that were not refused registration into a single Child application. Copies of the filing receipts for both filings are attached. AMENDMENT TO THE DESCRIPTION OF GOODS Applicant herewith submits its Request for Reconsideration After Final and requests following goods in Class 5 to remain in this Parent Application: "Veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function" in International Class 5. AMENDMENT TO SUPPLEMENTAL REGISTER Please delete the reference to "PRINCIPAL REGISTER" in this Parent application and substitute therefor ? SUPPLEMENTAL REGISTER?. REMARKS In light of the above amendments, it is believed that this application is now in condition for publication. Should the Examining Attorney have any questions which remain after consideration of the foregoing, he is encouraged to contact applicant's attorney at 1-800-445-3460. Any additional fees necessitated by this submission may be charged to Deposit Account 19-0522. Respectfully submitted, Cheryl L. Burbach Hovey Williams LLP Attorneys for Applicant

EVIDENCE

Evidence in the nature of Filing receipt for Amendment to Allege Use filed November 30, 2015. Filing receipt for Request to Divide filed December 1, 2015. has been attached.

Original PDF file:

[evi_1-7043171130-20151201111422999094_.547581_2.PDF](#)

Converted PDF file(s) (3 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

Original PDF file:

[evi_1-7043171130-20151201111422999094_.548036_1.PDF](#)

Converted PDF file(s) (2 pages)

[Evidence-1](#)

[Evidence-2](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant hereby deletes the following class of goods/services from the application.

Class 031 for Animal feed

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 005 for Animal feed additive for use as a nutritional supplement for medical purposes; Animal feed supplements; Dietary supplements for animals; Feed supplements for animals; Medicated supplements for foodstuffs for animals; Non-medicated additives for animal feed for use as nutritional supplements; Veterinary preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing pharmaceutical preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing vitamins and minerals for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. *For a collective trademark, collective service mark, or collective membership mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. *For a certification mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: ~~Animal feed additive for use as a nutritional supplement for medical purposes; Veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; Animal feed supplements; Dietary supplements for animals; Feed supplements for animals; Medicated supplements for foodstuffs for animals; Non-medicated additives for animal feed for use as nutritional supplements; Veterinary preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing pharmaceutical preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing vitamins and minerals for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function~~

Class 005 for Veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in

commerce on or in connection with the identified goods/services in the application. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. ***For a certification mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

ADDITIONAL STATEMENTS

Supplemental Register

The applicant seeks registration of the mark on the Supplemental Register (i.e., a change of the words 'Principal Register' to 'Supplemental Register'). NOTE: The applicant has separately filed an Allegation of Use, to change the basis of this application from Section 1(b), intent-to-use, to Section 1(a), use in commerce.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Cheryl L. Burbach/ Date: 12/01/2015

Signatory's Name: Cheryl L. Burbach

Signatory's Position: Attorney of Record, Kansas and Missouri bar member

Signatory's Phone Number: 913-647-9050

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86336064

Internet Transmission Date: Tue Dec 01 15:15:14 EST 2015

TEAS Stamp: USPTO/RFR-XX.XX.XXX.XXX-2015120115151435

0208-86336064-5407321186d6b535b6884741ec

91c9e8152662b9ca39cec019e405097e55fdf-N/

A-N/A-20151201111422999094

Trademark Electronic Application System (TEAS) filing receipt

We have received your Trademark/Service Mark Amendment to Allege Use form below.

To the Commissioner for Trademarks:

MARK: HORSLYX(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86336064/large>)

SERIAL NUMBER: 86336064

The applicant, Carrs Agriculture Limited, having an address of
Old Croft, Stanwix
Carlisle, CA39BA
United Kingdom

is submitting the following allegation of use information:

For International Class 005:

Current identification: Animal feed additive for use as a nutritional supplement for medical purposes; Animal feed supplements; Dietary supplements for animals; Feed supplements for animals; Medicated supplements for foodstuffs for animals; Non-medicated additives for animal feed for use as nutritional supplements; Veterinary preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing pharmaceutical preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing vitamins and minerals for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function

The mark is in use in commerce on or in connection with all of the goods/services, or to indicate membership in the collective organization listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 07/00/1997, and first used in commerce at least as early as 08/16/2015, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) images of the packaging for the goods bearing the mark.

1 [SPN0-7043171130-20151124135507733461_543873_2.JPG]

2 [SPN0-7043171130-20151124135507733461_543869_2.JPG]

3 [SPN0-7043171130-20151130160036561540_545616_2.JPG]

For International Class 031:

Current identification: Animal feed

The mark is in use in commerce on or in connection with all of the goods/services, or to indicate membership in the collective organization listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 07/00/1997, and first used in commerce at least as early as 08/16/2015, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) images of the packaging for the goods bearing the mark.

1 [SPN1-7043171130-20151124135507733461_543875_2.JPG]

2 [SPN1-7043171130-20151124135507733461_543872_2.JPG]

The applicant is not filing a Request to Divide with this Allegation of Use form.

MISCELLANEOUS STATEMENTS

Applicant is concurrently filing its Request to Divide and Request for Reconsideration after Final Office Action

A fee payment in the amount of \$200 has been submitted with the form, representing payment for the allegation of use for 2 classes.

Declaration

STATEMENTS: The signatory believes that: if the applicant is filing the amendment to allege use under 15 U.S.C. §1051(c) or a statement of use under 15 U.S.C. §1051(d), the applicant is the owner of the mark sought to be registered; the mark is in use in commerce; **for a trademark or service mark application**, the applicant is using the mark in commerce on or in connection with all the goods/services in the application or notice of allowance, or as subsequently modified; **for a collective trademark, collective service mark, collective membership mark application**, the applicant is exercising legitimate control over the use of the mark in commerce by members on or in connection with all the goods/services/collective membership organization in the application or notice of allowance, or as subsequently modified; **for a certification mark application**, the applicant is exercising legitimate control over the use of the mark in commerce by authorized users on or in connection with the all goods/services in the application or notice of allowance, or as subsequently modified, and the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive; and the specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the

like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /Cheryl L. Burbach/ Date: 11/30/2015

Signatory's Name: Cheryl L. Burbach

Signatory's Position: Attorney of Record, Kansas and Missouri Bar member

Signatory's Phone: 913-647-9050

Thank you,

The TEAS support team

Mon Nov 30 17:03:19 EST 2015

STAMP: USPTO/AAU-70.43.171.130-20151130170319480643-86336064-
540139debaa937886cfb80c52cd56a5aa980cff5d1b2a644ddb3e3cae2f0-DA-4950-
20151130160036561540

We have received your Request to Divide Application form below.

To the Commissioner for Trademarks:

The following is submitted for application serial number. **86336064** (HORSLYX) :

FORM INFORMATION

REQUEST TO DIVIDE

As required by the examiner, Applicant is hereby filing a Request to Divide contemporaneously with its Response to Office Action dated June 1, 2015 (which supersedes the Office Action issued May 28, 2015). The Applicant is requesting division of the acceptable goods in Class 5 and the already accepted goods in Class 31, as follows:

"Animal feed additive for use as a nutritional supplement for medical purposes; Animal feed supplements; Dietary supplements for animals; Feed supplements for animals; Medicated supplements for foodstuffs for animals; Non-medicated additives for animal feed for use as nutritional supplements; Veterinary preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing pharmaceutical preparations for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function; veterinary preparations containing vitamins and minerals for livestock for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function" in IC 005; and

"Animal feed" in IC 031.

PARENT APPLICATION

Applicant desires that the remaining goods not divided out remain with the parent application and be moved to the Supplemental Register, namely:

“Veterinary preparations for livestock in block form for feeding to animals for the treatment of nutritional deficiencies in forage and grazing and support of a healthy respiratory system, and support of healthy joint function” in International Class 5.

CHILD APPLICATION

The Applicant is desirous that this Request to Divide will result in the creation of a single child application.

REMARKS

In light of the above amendments, it is believed that this application is now in condition for publication and subsequent allowance. Should the Examining Attorney have any questions which remain after consideration of the foregoing, he is encouraged to contact applicant's attorney at 1-800-445-3460. Any additional fees necessitated by this submission may be charged to Deposit Account 19-0522.

Respectfully submitted,

Cheryl L. Burbach

Hovey Williams LLP

Attorneys for Applicant

FEE(S)

Fee(s) in the amount of \$325 is being submitted.

Submission Signature

Signature: /Cheryl L. Burbach/ Date: 11/30/2015

Signatory's Name: Cheryl L. Burbach

Signatory's Position: Attorney of Record, Kansas and Missouri bar member

Signatory's Phone Number: 913-647-9050

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter\:

- (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO;
- (2) the USPTO has granted the request of the prior representative to withdraw;
- (3) the applicant has filed a power of attorney appointing him/her in this matter; or
- (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.